



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

MAR 15 1990

OFFICE OF  
WATER

Mr. Joseph M. Polito  
Honigman, Miller, Schwartz and Cohn  
2290 First National Building  
Detroit, Michigan 48226-3583

Dear Mr. Polito:

Thank you for your letter of December 21, 1989, addressed to Administrator William Reilly. You requested in your letter that the Administrator review and issue a clarification on the applicability of the combined wastestream formula ("CWF") in establishing effluent limits for commercial waste treatment facilities ("CWTs") that are industrial users of publicly owned treatment works ("POTWs") and which treat wastes covered by national categorical pretreatment standards. Because your letter raises issues under the Clean Water Act Pretreatment Program, Mr. Reilly asked that the Office of Water Enforcement and Permits provide a response.

I would like to start by reviewing for you EPA's position with regard to the treatment by CWTs of wastes covered by national categorical pretreatment standards. Thereafter, I will discuss ongoing regulatory activities that should be of interest to you.

EPA has established national categorical standards applicable to the introduction to POTWs of wastes ("categorical wastes") generated by a number of industrial categories. Under the regulations, generators of categorical wastes must ensure treatment of the wastes to the levels prescribed by the categorical standards. Most generators choose to construct on-site facilities that provide the pretreatment necessary to allow the discharge of the treated effluent to a POTW. Other generators, however, may choose to send their wastes off-site to CWTs for the requisite pretreatment. It is EPA's longstanding view that generators are not relieved of their obligations under the Clean Water Act simply because they send their wastes off-site. (See, for example, the enclosed 1983 Memorandum from Martha Prothro to Frank Covington.) Rather, generators sending their wastes off-site for treatment must ensure that the CWT treats the categorical waste to the degree prescribed by the

relevant categorical standard. Moreover, CWTs have an independent responsibility under the Clean Water Act to ensure that wastes introduced by them to a POTW are treated in accordance with categorical pretreatment standards applicable to the wastes they treat as well as any other pretreatment standards and requirements.

Those CWTs that mix a categorical waste with other categorical or non-categorical wastes prior to pretreatment may use the CWF to calculate legally permissible discharge limits. The CWF is available for use whenever process wastewaters covered by a categorical standard are mixed with other wastes prior to treatment. EPA does not view the CWF as being available only to waste generators, but allows any party introducing categorical wastes to a POTW to utilize it as appropriate. I wish to emphasize, however, that under current rules CWTs are not required to use the CWF. The CWT may handle and treat categorical wastes in any manner that will result in compliance with categorical standards applicable to the categorical wastes. Other alternatives available to CWTs to accomplish this result would include: (1) segregation and batch treatment of each type of categorical waste to the degree required by the single categorical standard applicable to each such waste, or (2) treatment of a mixture of categorical and noncategorical wastes such that each pollutant discharged is in compliance (after correction for dilution flows) with the most stringent numerical limit prescribed for that pollutant in any of the categorical standards applicable to the wastes being treated. Option (2) is essentially a variation of the CWF that uses the most stringent numerical limit rather than a limit based on a flow weighted average. The option provides for equivalent or better treatment than is required by strict application of the CWF, but it has the distinct advantage of requiring much less data for its application. As with industrial users strictly applying the CWF, those entities using option (2) must have alternate limits derived by the Control Authority or do so on their own with the concurrence of the Control Authority.

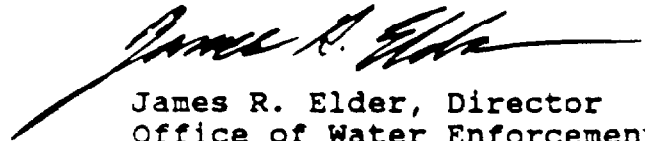
You describe in your letter a number of practical problems associated with use of the CWF by CWTs. In response, I reiterate that CWTs are not now required to use the CWF if they otherwise ensure compliance with applicable categorical standards. In addition, EPA is considering amending the current requirements applicable to CWTs. Ultimately, EPA plans to develop a categorical standard specifically tailored to certain CWTs. However, because it may be a number of years before such a standard is developed, and because the types of CWTs to be covered by any such categorical standard has not yet been finally determined, EPA is currently reviewing a number of other options for regulating CWTs. Among the additional options under consideration is development of case-by-case limits based on a

best professional judgment determination of best available technology. 53 Fed. Reg. 47,632 (Nov. 23, 1988). We anticipate promulgating a final rule addressing this issue in the near future.

The Agency received many comments on the CWF similar to yours in response to its notices of proposed rulemaking on this subject. EPA will address these comments as part of any future rulemaking activity.

If you have any further questions regarding these matters, please contact either Ephraim King of my staff at (202) 479-9539 or Roland Dubois of the Office of General Counsel at (202) 382-7703.

Sincerely yours,

A handwritten signature in black ink, appearing to read "James R. Elder", with a long, sweeping horizontal line extending to the right.

James R. Elder, Director  
Office of Water Enforcement  
and Permits (EN-335)

Enclosure

cc: Ken Fenner, EPA Region 5  
Susan Lepow, Office of General Counsel  
Charlie J. Williams, Detroit Water and Sewerage Department